

Appl. No. 09/753,226
Amdt. Dated 03/08/2005
Reply to Office Action of December 8, 2004

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed December 8, 2004. In the Office Action, claims 14 and 16 were objected to due to informalities; claim 16 was rejected under 35 U.S.C. §112, claims 1 and 6 were rejected under 35 U.S.C. §102(b); and claims 2-5, 7-10, 12, 15 and 17-21 were rejected under 35 U.S.C. §103(a).

Herein, claims 8-10 and 16 have been cancelled without prejudice. Claims 1, 5-6, 14, 17 and 20 have been amended. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Claim Objections

Claims 14 and 16 were objected to due to informalities. In response, claim 14 has been revised in general accordance with the suggestions set forth in the Office Action. Claim 16 has been cancelled without prejudice. Withdrawal of the objection is respectfully requested.

Rejection Under 35 U.S.C. § 112

Claim 16 was rejected under 35 U.S.C. §112, second paragraph. In light of the cancellation of claim 16, Applicants respectfully request withdrawal of the rejection.

Rejection Under 35 U.S.C. § 102

Claims 1 and 6 were rejected under 35 U.S.C. §102(b) as being anticipated by Hershey (U.S. Patent 5,481,535). Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to anticipate a claim under 35 U.S.C. §102(b), Hershey must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claim 1 includes the limitation that the data frame is "a frame assembled in accordance with Institute of Electrical and Electronics Engineers (IEEE) 802.11 having a type field identifying the frame to be a data type." Applicant respectfully disagrees with the arguments in the Office Action that the ACK frame is a data frame in the broadest sense and the type of frame merely involves semantics. Instead, it is well documented that the 802.11 standard supports various frame types including management frames, control frames, and data frames. An ACK frame is a type of control frame, which differs from a data frame. A copy of an article describing these differences is enclosed herewith as Appendix A. If the Examiner considers this information to be material to the examination, Applicants respectfully request the Examiner to cite the reference in a PTO-892 form.

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The limitation of "receiving a 'data' frame...from the destination device in response to the destination device receiving the cast frame for acknowledgement of receipt of the cast frame" is not taught by the act of listening for acknowledgement signals set forth in Hershey (column 6, lines 6-11; element 41 of FIG. 3A). In fact, Hershey teaches away from the claimed invention because it teaches the use of acknowledgement signals, which are effectively ACK frames and in accordance with the teachings of conventional communication technique set forth on page 2, lines 1-3 of the subject application. Moreover, these acknowledgement signals are not received by the transmitting device, but instead, are generated and also received by the transceivers to determine whether to erase the incoming message. See Column 6, lines 7-13 of Hershey.

With respect to dependent claim 6, Applicants incorporate by reference the arguments set forth with respect to claim 1.

Based on the foregoing, Applicants respectfully request withdrawal of the §102(b) rejection.

Rejections Under 35 U.S.C. § 103

Claims 2-5, 7 and 17-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hershey in view of IEEE 802.11 (Chapter 7). Applicants respectfully disagree with the rejection because a *prima facie* case of obviousness has not been established. When evaluating a claim for determining obviousness, all limitations of the claim must be evaluated. See *In re Fine*, 873 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (Emphasis added).

With respect to independent claim 1 upon which claims 2-4 and 7 depend, Applicants respectfully submit that further limitations of data frame is "a frame assembled in accordance with an Institute of Electrical and Electronics Engineers (IEEE) 802.11 requirement having a type field identifying the frame to be a data type" and the use of the data frame for acknowledgement purposes of a prior cast frame is not suggested by the combined teachings of Hershey and IEEE 802.11. In contrast, Hershey fails to suggest, and perhaps even teaches away from the claimed invention because the reference teaches a completely different use of acknowledgement signals (ACK frames), which are not data frames as claimed. While IEEE 802.11 may discuss different formations associated with a cast frame, the combination of these teachings does not teach or even suggest receiving a *data frame* to acknowledge receipt of the cast frame as set forth in claim 1. *Emphasis added*.

With respect to independent claims 5, 17 and 20, similar to the arguments set forth for claim 1, neither Hershey nor IEEE 802.11, alone or in combination, suggest receiving the data frame by the transmitting device in response to a "cast" frame. *Emphasis added*. In accordance with the Examiner's suggestion, the data frame has been specifically defined in all of the pending independent claims as a frame assembled in accordance with Institute of Electrical and Electronics Engineers (IEEE) 802.11 (i.e., an IEEE 802.11 data frame) which has a type field identifying the frame to be a data type. This amendment is consistent with the description in the specification and does not add substantive new matter.

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Based on the foregoing, Applicants respectfully request withdrawal of the §103(a) rejection associated with pending claims 2-5, 7 and 17-21.

Claims 8-10 were rejected under 35 U.S.C. § 103(a). These claims have been cancelled without prejudice. Applicants respectfully request the Examiner to withdraw their corresponding rejections.

Claims 12 and 14-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hershey in view of IEEE 802.11 and Tanabe (U.S. Patent No. 5,754,947). Applicants incorporate the arguments set forth above concerning the lack of teaching of the data frame, being a frame assembled in accordance with Institute of Electrical and Electronics Engineers (IEEE) 802.11 having a type field identifying the frame to be a data type, from the destination device in order to acknowledge receipt of the cast frame. Applicants respectfully request that the §103(a) rejection be withdrawn.

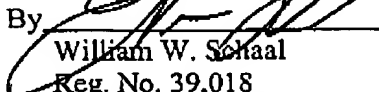
Conclusion

Applicants respectfully request that a timely Notice of Allowance be issued in this case. In order to facilitate prosecution of the case, the Examiner is invited to contact the undersigned attorney if further discussion would be of assistance. The undersigned attorney can be reached at the telephone number listed below.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 03/08/2005

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